

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

TEM Puerto Rico, Inc.

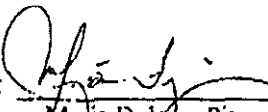
Petition for Declaratory Ruling Pursuant to
Section 310(b)(4) of the Communications
Act of 1934

Declaration

I am the Director of the Corporate Legal Office for TEM Puerto Rico, Inc. ("TEM PR"), petitioner in the attached Petition for Declaratory Ruling ("Petition"). I have reviewed the Petition. All of the facts set forth in the Petition which relate to TEM PR, and its parent corporation, Telefonía Móviles, S.A. ("Móviles"), a publicly-traded Spanish corporation and its parent, Telefonía, S.A. ("Telefonía"), also a publicly-traded Spanish corporation, are true and correct to the best of my personal knowledge, information and belief.

Pursuant to Sections 1.2001 through 1.2003 of the Commission's rules, I also certify that no party related to TEM PR, Móviles or Telefonía has been denied federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988.

TEM Puerto Rico, Inc.

By: 
María Dolores Pizarro
Director of the Corporate Legal Office

October 3, 2002

FCC 603	FCC Wireless Telecommunications Bureau Application for Assignments of Authorization and Transfers of Control	Approved by OMB 3060 - 0800 See instructions for public burden estimate Submitted 10/04/2002 at 05:44PM File Number: 0001048972
----------------	---	---

1) Application Purpose: Transfer of Control	
2a) If this request is for an Amendment or Withdrawal, enter the File Number of the pending application currently on file with the FCC	File Number:
2b) File numbers of related pending applications currently on file with the FCC	

Type of Transaction

3a) Is this a <i>pro forma</i> assignment of authorization or transfer of control? No
3b) If the answer to Item 3a is 'Yes', is this a notification of a <i>pro forma</i> transaction being filed under the Commission's forbearance procedures for telecommunications licenses?
4) For assignment of authorization only, is this a partition and/or disaggregation?
5a) Does this filing request a waiver of the Commission rules? If 'Yes', attach an exhibit providing the rule numbers and explaining circumstances. No
5b) If a feeable waiver request is attached, multiply the number of stations (call signs) times the number of rule sections and enter the
6) Are attachments being filed with this application? Yes
7a) Does the transaction that is the subject of this application also involve transfer or assignment of other wireless licenses held by the assignor/transferor or affiliates of the assignor/transferor (e.g., parents, subsidiaries, or other entities)? If 'Yes', attach a statement to this form and for which Commission approval is required? Yes
7b) Does the transaction that is the subject of this application also involve transfer or assignment of non-wireless licenses that are included on this form and for which Commission approval is required? Yes

8) How will assignment of authorization or transfer of control be accomplished? Sale or other assignment or transfer of stock

8) How will assignment of authorization or transfer of control be accomplished? Sale or other assignment or transfer of stock If required by applicable rule, attach as an exhibit a statement on how control is to be assigned or transferred. Attach copies of any pertinent contracts, agreements, instruments, certified copies of Court Orders, etc.
9) The assignment of authorization or transfer of control of license is Voluntary

10) FCC Registration Number (FRN): 0001726314

10) FCC Registration Number (FRN): 0001726314			
11) First Name (if individual):	MI:	Last Name:	Suffix:
12) Entity Name (if not an individual): NewComm Wireless Services Inc.			
13) Attention To: Javier			
14) P.O. Box:	And / Or	15) Street Address: 221 Ponce de Leon Ave., Suite 1407	
16) City: San Juan	17) State: PR	18) Zip Code: 00917	
19) Telephone Number: (787)620-0140		20) FAX Number: (787)620-0144	
21) E-Mail Address: jlamson@emilioscorp.com			

11) Race, Ethnicity, and Gender of Assignor (Optional)

Race:	American Indian or Alaska Native:	Asian:	Black or African-American:	Native Hawaiian or Other Pacific Islander:	White:
Ethnicity:	Hispanic or Latino:	Not Hispanic or Latino:			
Gender:	Female:	Male:			

23) FCC Registration Number (FRN): 0001726850			
24) First Name (if individual):	MI:	Last Name:	Suffix:
25) Entity Name (if not an individual): ClearComm, LP.			
26) P.O. Box:	And / Or	27) Street Address: 268 Ave., Luis Munoz Rivera: Suite 2206, Hato Rey Tower	

36) P.O. Box:	And / Or	37) Street Address: 1776 K St, NW	
38) City: Washington	39) State: OC	40) Zip Code: 20006	
41) Telephone Number: (202)719-3182	42) FAX Number: (202)719-4969		

44) The Assignee is a(n): Corporation			
45) FCC Registration Number (FRN): 0007752470			
46) First Name (if individual):	MI:	Last Name:	Suffix:
47) Entity Name (if other than individual): TEM Puerto Rico, Inc.			
48) Name of Real Party in interest:			49) TIN:
50) Attention To: Maria Dolores Pizarra Figueroa			
51) P.O. Box:	And / Or	52) Street Address: Metro Office Park, Calle 2 Edif. 17, Suite 600	
53) City: Guaynabo	54) State: PR	55) Zip Code: 00968	
56) Telephone Number: (787)273-5629	57) FAX Number: (787)749-5880		
58) E-Mail Address:			

61) P.O. Box:	And / Or	62) Street Address: 1676 international Drive. Penthouse	
63) City: McLean	64) State: VA	65) Zip Code: 22102	
66) Telephone Number: (703)891-7610	67) FAX Number: (703)891-7501		

69) Is the Assignee or Transferee a foreign government or the representative of any foreign government?	No
70) Is the Assignee or Transferee an alien or the representative of an alien?	No
71) Is the Assignee or Transferee a corporation organized under the laws of any foreign government?	No
72) Is the Assignee or Transferee a corporation of which more than one-fifth of the capital stock is owned of record or voted by aliens or their representatives or by a foreign government or representative thereof or by any corporation organized under the laws of a foreign country?	Yes
73) Is the Assignee or Transferee directly or indirectly controlled by any other corporation of which more than one-fourth of the capital stock is owned of record or voted by aliens, their representatives, or by a foreign government or representative thereof, or by any corporation organized under the laws of a foreign country? If Yes, attach exhibit explaining nature and extent of alien or foreign Ownership or control.	Yes

74) Has the Assignee or Transferee or any party to this application had any FCC station authorization, license, construction permit denied by the Commission? If "Yes", attach exhibit explaining circumstances.	No
75) Has the Assignee or Transferee or any party to this application, or any party directly or indirectly controlling the Assignee or Transferee, or any party to this application ever been convicted of a felony by any state or federal court? If "Yes", attach exhibit explaining circumstances.	No
76) Has any court finally adjudged the Assignee or Transferee, or any party directly or indirectly controlling the Assignee or Transferee guilty of unlawfully monopolizing or attempting unlawfully to monopolize radio communication, directly or indirectly, through control of manufacture or sale of radio apparatus, exclusive traffic arrangement, or any other means or unfair methods of competition? If "Yes", attach exhibit explaining circumstances.	No
77) Is the Assignee or Transferee, or any party directly or indirectly controlling the Assignee or Transferee currently a party in any pending matter referred to in the preceding two items? If "Yes", attach exhibit explaining circumstances.	No

78) Race, Ethnicity, Gender of Assignee/Transferee (Optional)

Race:	Native:	Asian:	Black or African-American:	Native Hawaiian or Other Pacific Islander:	White:
Ethnicity:	Hispanic or Latino:	Not Hispanic or Latino:			
Gender:	Female:	Male:			

Assignor/Transferor Certification Statements

1) The Assignor or Transferor certifies either (1) that the authorization will not be assigned or that control of the license will not be transferred until the consent of the Federal Communications Commission has been given, or (2) that prior Commission consent is not required because the transaction is subject to streamlined notification procedures <i>proprio forma</i> assignments and transfers by telecommunications carriers. See <i>Memorandum Opinion and Order</i> , 13 FCC Rcd. 6293(1998).	2) The Assignor or Transferor certifies that all statements made in this application and in the exhibits, attachments, or in documents incorporated by reference are material, are part of this application, and are true, complete, correct, and made in good faith.
79) Typed or Printed Name of Party Authorized to Sign	
First Name: Javier	MI:
Last Name: Lamoso	
Suffix:	
Signature: Javier Lamoso	
80) Title: President	
81) Date: 10/04/02	

Assignee/Transferee Certification Statements

1) The Assignee or Transferee certifies either (1) that the authorization will not be assigned or that control of the license will not be transferred until the consent of the Federal Communications Commission has been given, or (2) that prior Commission consent is not required because the transaction is subject to streamlined notification procedures <i>proprio forma</i> assignments and transfers by telecommunications carriers. See <i>Memorandum Opinion and Order</i> , 13 FCC Rcd. 6293 (1998).	2) The Assignee or Transferee waives any claim to the use of any particular frequency or of the electromagnetic spectrum as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise, and requests an authorization in accordance with this application.
3) The Assignee or Transferee certifies that grant of this application would not cause the Assignee or Transferee to be in violation of any pertinent cross-ownership, attribution, or spectrum cap rule.	4) The Assignee or Transferee agrees to assume all obligations and abide by all conditions imposed on the Assignor or Transferor under the subject authorization(s), unless the Federal Communications Commission pursuant to a request made herein otherwise allows, except for liability for any act done by, or any right accrued by, or any suit or proceeding had or commenced against the Assignor or Transferor prior to this assignment.
5) The Assignee or Transferee certifies that all statements made in this application and in the exhibits, attachments, or in documents incorporated by reference are material, are part of this application, and are true, complete, correct, and made in good faith.	6) The Assignee or Transferee certifies that neither it nor any other party to the application is subject to a denial of Federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1998, 21 U.S.C. § 862, because of a conviction for possession or distribution of a controlled substance. See Section 1.2002(b) of the rules, 47 CFR § 1.2002(b), for the definition of "party to the application" as used in this certification.
7) The applicant certifies that it either (1) has an updated Form 602 on file with the Commission, (2) is filing an updated Form 602 simultaneously with this application, or (3) is not required to file Form 602 under the Commission's rules.	

82) Typed or Printed Name of Party Authorized to Sign

First Name: Maria Dolores	MI:
Last Name: Pizarro Figueroa	
Suffix:	
83) Title: Corporate Legal Counsel	
Signature: Maria Dolores Pizarro Figueroa	
84) Date: 10/04/02	

WILLFUL FALSE STATEMENTS MADE ON THIS FORM OR ANY ATTACHMENTS ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. Code, Title 18, Section 1001) AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. Code, Title 47, Section 312(a)(1)), AND/OR FORFEITURE (U.S. Code, Title 47, Section 503).

Authorizations To Be Assigned or Transferred

85) Call Sign	86) Radio Service	87) Location Number	88) Path Number (Microwave only)	89) Frequency Number	90) Lower or Center Frequency (MHz)	91) Upper Frequency (MHz)	92) Constructed Yes / No
WPQN608	AL						Yes
WPQN815	AL						Yes
WPQW938	AL						Yes
WPQW703	AL						Yes
WPOV383	AL						Yes
WPOV384	AL						Yes
WPOV385	AL						Yes
WPOV386	AL						Yes
WPOV387	AL						Yes
WPOV388	AL						Yes
WPOV390	AL						Yes
WPOV391	AL						Yes
WPON848	AL						Yes
WPON849	AL						Yes
WPON850	AL						Yes
WPQQ382	AL						Yes
WPON773	AL						Yes
WPON774	AL						Yes
WPON775	AL						Yes
WPON776	AL						Yes
WPQN571	AL						Yes
WPQW962	AL						Yes
WPON441	AL						Yes
WPON442	AL						Yes
WPQY596	AL						Yes
WPSN444	AL						Yes
WPSP533	AL						Yes
WPSR331	AL						Yes
WPON445	AL						Yes
WPON447	AL						Yes
WPON448	AL						Yes
WPQS874	AL						Yes
WPON435	AL						Yes
WPON436	AL						Yes
WPON437	AL						Yes
WPON438	AL						Yes
WPON439	AL						Yes
WPQN473	AL						Yes
WPQN474	AL						Yes
WPQN475	AL						Yes
WPQN476	AL						Yes
WPQN477	AL						Yes
WPQN478	AL						Yes
WPQN479	AL						Yes

WPQN480	AL		Yes
WPQN481	AL		Yes
WPQN482	AL		Yes
WPQN483	AL		Yes
WPQN484	AL		Yes
WPSZ591	AL		Yes
WPON576	AL		Yes
WPON578	AL		Yes
WPON579	AL		Yes
WPON453	AL		Yes
WPON454	AL		Yes
WPON455	AL		Yes
WPON456	AL		Yes
WPON457	AL		Yes
WPON458	AL		Yes
WPON452	AL		Yes
WPON450	AL		Yes
WPON451	AL		Yes
WPQN609	AL		Yes
WPQN610	AL		Yes
WPQN611	AL		Yes
WPQN612	AL		Yes
WPQN613	AL		Yes
WPQN614	AL		Yes
WPQN615	AL		Yes
WPQN616	AL		Yes
WPQN617	AL		Yes
WPQN618	AL		Yes
WPQN619	AL		Yes
WPQX308	AL		Yes
WPQX309	AL		Yes
WPON459	AL		Yes
WPON460	AL		Yes
WPON461	AL		Yes
WPSJ834	AL		Yes
WPSJ835	AL		Yes
WPSX364	AL		Yes
WPSX365	AL		Yes
WPTH509	AL		Yes
WPTH513	AL		Yes
WPSN474	AL		Yes
WPSN475	AL		Yes
WPTG770	AL		Yes
WPTG771	AL		Yes
WPTG772	AL		Yes
WPSK667	AL		Yes
WPSK669	AL		Yes
WPSK670	AL		Yes
WPSK671	AL		Yes
WPTI698	AL		Yes
WPSQ229	AL		Yes
WPSN608	AL		Yes

WPSN612	AL	Yes
WPSN614	AL	Yes
WPSJ725	AL	Yes
WPSP492	AL	Yes
WPSN457	AL	Yes
WPSN460	AL	Yes
WPSN463	AL	Yes
WPST331	AL	Yes
WPSN563	AL	Yes
WPSN579	AL	Yes
WPTV258	AL	Yes
WPTH698	AL	Yes
WPUF951	AL	Yes
WPTH439	AL	Yes
WPUB401	AL	Yes
WPOV394	AL	Yes
WPOV395	AL	Yes
WPOV396	AL	Yes
WPOV397	AL	Yes
WPOV398	AL	Yes
WPOV399	AL	Yes
WPOV400	AL	Yes
WPOV401	AL	Yes
WPOV402	AL	Yes
WPOV403	AL	Yes
WPOV392	AL	Yes
WPOV393	AL	Yes
WPTG776	AL	Yes
WPTG777	AL	Yes
WPTG779	AL	Yes
WPTG773	AL	Yes
WPTH576	AL	Yes
WPTP764	AL	Yes

FCC Form 603
 Schedule A

 Schedule for Assignments of Authorization
 and Transfers of Control in Auctioned Services

 Approved by OMB
 3060 - 0800
 See instructions for public
 burden estimate

Assignments of Authorization

1) Assignee Eligibility for Installment Payments (for assignments of authorization only)

Is the Assignee claiming the same category or a smaller category of eligibility for installment payments as the Assignor (as determined by the applicable rules governing the licenses issued to the Assignor)?

If Yes, is the Assignee applying for installment payments?

2) Gross Revenues and Total Assets Information (if required) (for assignments of authorization only)

Refer to applicable auction rules for method to determine required gross revenues and total assets information

Year 1 Gross Revenues (current)	Year 2 Gross Revenues	Year 3 Gross Revenues	Total Assets:
---------------------------------	-----------------------	-----------------------	---------------

3) Certification Statements

For Assignees Claiming Eligibility as an Entrepreneur Under the General Rule

Assignee certifies that they are eligible to obtain the licenses for which they apply.

For Assignees Claiming Eligibility as a Publicly Traded Corporation.

Assignee certifies that they are eligible to obtain the licenses for which they apply and that they comply with the definition of a Publicly Traded Corporation, as set out in the applicable FCC rules.

For Assignees Claiming Eligibility Using a Control Group Structure

Assignee certifies that they are eligible to obtain the licenses for which they apply.

(Assignee Certifies that the applicant's sole control group member is a preexisting entity, if applicable.

For Assignees Claiming Eligibility as a Very Small Business, Very Small Business Consortium, Small Business, or as a Small Business Consortium

Assignee certifies that they are eligible to obtain the licenses for which they apply.

Assignee certifies that the applicant's Sole control group member is a preexisting entity, if applicable.

For Assignees Claiming Eligibility as a Rural Telephone Company

Assignee certifies that they meet the definition of a Rural Telephone Company as set out in the applicable FCC rules, and must disclose all parties to agreement(s) to partition licenses won in this auction. See applicable FCC rules.

Transfers of Control

4) Licensee Eligibility (for transfers of control only)

As a result of transfer of control, must the licensee now claim a larger or higher category of eligibility than was originally declared?

No

If Yes', the new category of eligibility of the licensee is:

Certification Statement for Transferees

Transferee certifies that the answers provided in Item 4 are true and correct.

Attachment List

Attachment Type	Date	Description	Contents
-----------------	------	-------------	----------

EXHIBIT 1: DESCRIPTION OF TRANSACTION AND PUBLIC INTEREST STATEMENT

I. INTRODUCTION

By this application (“Application”), ClearComm, L.P. (“ClearComm”) and TEM Puerto Rico, Inc. (“TEM PR”) (together, the “Parties”) request Federal Communications Commission (“Commission”) consent to the transfer of control of NewComm Wireless Services, Inc. (“NewComm”) from ClearComm to TEM PR. NewComm holds the **131** common carrier point-to-point microwave licenses (the “Licenses”) listed on the attached FCC Form **603**. The Licenses are an integral part of NewComm’s Personal Communications Service (“PCS”) operations, of which TEM PR seeks to acquire control. The microwave facilities authorized by the Licenses are necessary for the current operation and continued development of NewComm’s PCS network, e.g., to connect base stations to switching facilities.

II. DESCRIPTION OF THE TRANSACTION

The Parties. NewComm is majority owned and controlled by ClearComm, a limited partnership organized under the laws of the state of Delaware, composed of one general partner, SuperTel Communications Corp. (“SuperTel”), a corporation organized under the laws of the Commonwealth of Puerto Rico, and approximately **1600** individual limited partners. Syndicated Communications Venture Partners IV, L.P. (“SYNCOM”) and Fleet Development Ventures Group (“FDVG”) also hold minority interests in NewComm of **8.02%** and **4.08%**, respectively. NewComm holds the Licenses, two C-Block PCS licenses (“PCS Licenses”), and an authorization to provide global resale and facilities-based telecommunications services pursuant to Section **214** of the Communications Act of **1934**, as amended, **47 U.S.C. § 214**. The current organizational structure of NewComm is set forth in Attachment A to this Exhibit. TEM PR is a corporation organized under the laws of the Commonwealth of Puerto Rico, which is wholly owned by Telefonica Moviles, S.A. (“Moviles”), a publicly-traded Spanish corporation controlled by Telefonica, S.A. (“Telefónica”), also a publicly-traded Spanish corporation.

Background. In March **1999**, ClearComm entered into a Joint Venture Agreement (“JVA”) with Telefonica Larga Distancia de Puerto Rico, Inc. (“TLD”), an indirect Telefonica subsidiary, which formed NewComm.¹ NewComm commenced commercial wireless service in Puerto Rico in September **1999** under a management agreement with TLD. Under the terms of the JVA, and pursuant to Commission consent, ClearComm assigned its licenses to NewComm and TLD loaned working capital to NewComm. That loan was evidenced by promissory notes secured by a TLD right to convert the promissory notes, as well as certain subsequent non-

¹ TLD is indirectly controlled by Telefonica through its wholly owned subsidiary, Telefonica Internacional, S.A. (“TISA”), a company incorporated in Spain, and directly controlled by Telefónica International Holding, B.V. (“TIH”), a company incorporated in the Netherlands and a wholly-owned subsidiary of TISA.

dilution notes, into approximately 49.9% of the equity and 25% of the voting rights of NewComm.²

In ClearComm. L.P., Memorandum Opinion and Order, 16 FCC Rcd 18627 (WTB 2001) (“Order”), the Commission found that the arrangements between ClearComm, NewComm and TLD, including the management agreement with TLD, are consistent with the Commission’s rules, regulations and policies. Except for a May 2002 Contribution Agreement that provides TLD with the right to convert its entire 49.9% equity interest to a voting interest³ and a March 2002 Stock Purchase Agreement that provides for TLD to acquire additional shares of stock in order to obtain a total 50.1% voting interest in NewComm,⁴ ClearComm, NewComm, and TLD have not altered their relationship since the Order.

The Order arose from a proceeding begun by one of NewComm’s incumbent competitors in the market. The competitor alleged that the formation and terms of the JVA caused a *de facto* transfer of control of the NewComm PCS Licenses from ClearComm to TLD.⁵ While the FCC ultimately determined that the transaction did not cause a *de facto* transfer of control, the parties agreed with the FCC to eliminate an option in favor of TLD to acquire an interest of 0.2% that had been part of the JVA. On June 26, 2001, the JVA was amended to eliminate the TLD option to buy the additional 0.2%.⁶ This transaction does not, accordingly, arise out of the exercise of any option in contravention of the Order, but rather represents the exercise of existing rights under the JVA along with the acquisition of stock contemplated by an entirely new agreement between the parties.

During the course of the *de facto* control proceedings before the FCC, which extended from February 4, 1999 to October 17, 2001,⁷ NewComm was unable to secure permanent financing from traditional capital markets. In order to fund its obligations and the operation of the system, in each of November 2000, December 2000, and March 2001, NewComm received

² See *Order*, 16 FCC Rcd 18629-18630.

³ On March 12, 2002, TLD and ClearComm entered into a Stock Purchase Agreement pursuant to which TLD, through a combination of exercising its conversion rights and acquiring certain additional NewComm shares from ClearComm, and subject to Commission consent, would obtain a controlling 50.1% voting ownership interest in NewComm. TLD and ClearComm entered into the Stock Purchase Agreement after the five-year construction notifications had been filed for the Licenses, terminating the designated entity restricted transfer period. The Stock Purchase Agreement is attached hereto as Attachment B.

⁴ The Contribution Agreement was executed on May 20, 2002 and is attached hereto as Attachment C.

⁵ *Order*, 16 FCC Rcd 18629.

⁶ See Letter to Ms. Magalie Roman Salas, Secretary, Federal Communications Commission, and Ms. Andrea Kelley, Auctions and Industry Analysis Division, from Mr. Robert Pettit, Counsel to NewComm (June 27, 2001) (detailing amendments to the JVA deleting TLD’s 0.2% option and the effect of the SYNCOM investment). See also. *Order*, 16 FCC Rcd 18632.

⁷ See ULS File No. 0000003752.

funding from SYNCO, a third party, in exchange for an aggregate 8.02% ownership interest in NewComm. In March 2002, ClearComm sold 1.08% of NewComm to a group of investors led by TLD. At present, NewComm is owned 50.1% by TLD, 37.8% by ClearComm, 2% by SYNCOM, and 4.02% by FDVG.⁸ Due to the provisions associated with the SYNCOM and FDVG investments, their interests will remain consistent following conversion of TLD's debt to equity and the consummation of the Stock Purchase Agreement. Upon consummation of the proposed transaction, TEM PR will own 50.1% of NewComm's issued and outstanding stock; ClearComm will own 37.8%; SYNCO will own 8.02% and FDVG will own 4.08%.

During the period from June 26, 2001 through March 12, 2002, TLD's debt was convertible into equity, upon which conversion would result in TLD obtaining 49.9% of the equity of NewComm and 25% of the voting rights of NewComm. TLD had no other rights, either future, contingent or otherwise, to the equity or voting rights of NewComm.

Following the Order, NewComm continued its efforts to secure financing for its operations. In May 2002, NewComm secured financing for certain Lucent equipment loans and bridge financing supplied by BNP and others. Had permanent financing had been available, the resolution of the pending *de facto* control issues, unavailing for obvious reasons. Unfortunately, with the timing of the resolution of the issues coinciding with the failure of the capital markets for telecommunications, the company's position in terms of funding sources. Accordingly, the company evaluated a number of options, and, after the termination of certain restrictions on the ownership of NewComm, included the sale of a controlling interest to Telefónica.

1. Transaction Subject to Commission consent and the satisfaction of other closing conditions, TEM PR intends to acquire a controlling 50.1% majority voting ownership interest in NewComm from ClearComm. TEM PR proposes to do so as follows:

First, during the pendency of this Application, TLD shall assign the promissory notes with their attendant conversion rights, in addition to certain related equity, to TEM PR. TLD shall receive 100% of the voting interests in TEM PR in exchange. TLD also shall assign to TEM PR TLD's rights under the Conversion Agreement to exercise its conversion rights to

⁸ Four percent or less of ClearComm is owned by non-US interest holders. See Declaration of Javier Lamosa, attached hereto as Attachment D.

⁹ One of the issues raised in the context of the *de facto* control proceedings was the fact that NewComm was a designated entity under Section 24.709(b)(6) of the FCC's rules, 47 C.F.R. §24.709(b)(6). Hence, a determination that NewComm was controlled by TLD would have resulted in a loss of NewComm's designated entity status. However, pursuant to Section 24.839(a)(6) of the FCC's rules, 47 C.F.R. §24.839(a)(6), the restrictions on the ownership of NewComm lapsed after the company filed its notification of having met the five-year construction benchmarks for its authorizations. NewComm's five-year construction notifications were filed on September 10, 2001, and granted on October 31, 2001. See FCC ULS File Nos. 0000588662, 0000588663.

acquire additional shares in order to obtain a **49.9%** interest in NewComm and TLD's **rights** under the Stock Purchase Agreement to acquire a total of **50.1%** interest in NewComm.

Second, also during the pendency of this Application, control of TEM PR will be transferred from TLD to Moviles. Because Moviles, through its subsidiaries and affiliates, holds and/or manages the wireless components of Telefonica's telecommunications business worldwide, this transfer will allow for the eventual consolidation of control and operation of NewComm's licenses and authorizations in the *arm* of Telefonica that possesses the most experience and expertise in providing commercial wireless services.

Finally, after Commission consent to the transfer of control of NewComm is obtained, TEM PR will exercise the conversion and acquisition rights obtained from TLD, in accordance with the agreements entered into between TLD and ClearComm and assigned by **TLD** to **TEM PR**. As a result of its exercise of its rights under the agreements with ClearComm, TEM PR will hold a 50.1% interest in NewComm. Following consummation ~~of~~ this transfer ~~of~~ control of NewComm to TEM PR, NewComm will be directly controlled by TEM PR, which will be controlled by Móviles, which is controlled by Telefónica. The ownership structure of NewComm, after consummation of the proposed transaction, is set forth in Attachment E to this Exhibit.

The Commission has held that under the current ownership structure of NewComm, ClearComm holds both *de jure* and *defacro* control of NewComm.¹⁰ In accordance with the terms of the Order, ClearComm and TLD have retained the amendments to the JVA and have not entered into any agreement that would result in the transfer of *de jure* or *de facto* control ~~from~~ ClearComm to any other party, with the exception of the agreements related to the transaction referenced herein. Until such time as Commission consent to ~~this~~ transaction is obtained and the underlying transaction is consummated, both *de jure* and *de facto* control of NewComm will remain with ClearComm.

III. FOREIGN OWNERSHIP

Section 310(b)(4) of the Communications Act of 1934 (the "Act") limits indirect investment by foreign individuals, corporations, and governments in U.S. common carrier radio licensees." Specifically, Section 310(b)(4) limits indirect foreign investment in a proposed transferee to 25%. However, the Act also grants the Commission the discretion to allow higher levels of foreign ownership if it determines that such ownership is consistent with the public interest. The Commission has adopted a presumption that the public interest is served by permitting more open investment from World Trade Organization ("WTO") member countries."

¹⁰ See *Order*, 16 FCC Rcd 18633. Prior to adoption of the *Order*, ClearComm and TLD amended the JVA to address the Commission's concerns that *de facto* control ~~of~~ NewComm might have been transferred to TLD.

¹¹ See 47 U.S.C. § 310(b)(4) (2002).

¹² See Rules and Policies on Foreign Participation in the U.S. Telecommunications Market, *Report and Order on Reconsideration*, 12 FCC Rcd 23891, 23940 (1997).

TEM PR has filed concurrently with this Application a petition for a declaratory ruling (“Petition for Declaratory Ruling”) in which TEM PR has asked the Commission’s International Bureau to determine that the proposed indirect foreign ownership of NewComm, if controlled by TEM PR, is in the public interest.”

IV. ADDITIONAL APPLICATIONS

Concurrently with this Application, the Parties also are filing separate applications for Commission consent to the transfer of control from ClearComm to TEM PR of NewComm in its capacity as holder of the following authorizations: (a) two broadband PCS licenses;¹⁴ and (b) a certificate, issued pursuant to Section 214 of the Act, authorizing NewComm to provide global facilities-based and resale telecommunications services.” The Parties also are filing voluntarily with the U.S. Department of Treasury Committee on Foreign Investment in the United States (“CFIUS”) a notification regarding the proposed transaction.

V. PUBLIC INTEREST STATEMENT

Section 310(d) of the Act requires that the Commission determine whether the proposed transfer is consistent with the public interest, convenience, and necessity. In its determination, the Commission generally considers whether the transaction:

- (1) would result in the violation of the Act or any other applicable statutory provision;
- (2) would result in a violation of Commission rules;
- (3) would substantially frustrate or impair the Commission’s implementation or enforcement of the Act or interfere with the objectives of that and other statutes;
- (4) promises to yield affirmative public interest **benefits**.¹⁶

The Commission has determined that an application seeking FCC consent to the transfer of control of a licensee does not require extensive review if the transfer will yield affirmative public interest benefits, will not violate the Act or the Commission’s rules, and will not frustrate or undermine policies and enforcement of the Act.” If a transfer raises no anti-competitive

¹³ A copy of the Petition for Declaratory Ruling is appended hereto as Attachment F.

¹⁴ Call signs KNLF736 and KNLF746.

¹⁵ See FCC File No. ITC-214-19990615-00426.

¹⁶ See, e.g., Applications of SBC Communications, Inc. and BellSouth Corporation, 15 FCC Rcd 25459, 25463-64 (2000).

¹⁷ See Applications of Tele-Communications, Inc. and AT&T Corp., *Memorandum Opinion and Order*, 14 FCC Rcd 3160, 3170 (1999).

concerns, a detailed showing of public interest benefits is not required.” **As part** of its public interest analysis, the Commission also determines whether the proposed transferee is qualified to hold Commission licenses.¹⁹

The proposed transfer fully satisfies the Commission’s public interest test. The **transfer** of control, pursuant to Commission consent and grant of the Petition for Declaratory Ruling, will not result in any violation of the Act or any other applicable statutes. Moreover, the transfer, **as** described above, fully complies with all Commission rules and does not require the grant of any waivers. Thus, the proposed transfer does not **frustrate** any of the Commission’s objectives:

TEM PR also is qualified to control Commission licenses. The proposed transaction will mark the entry of Telefonica into the **U.S.** commercial mobile radio services market in **Puerto Rico**.²⁰ Telefónica and its subsidiaries are the leading international providers of telecommunications services in the Spanish and Portuguese-speaking world. **As** an indirect subsidiary of Telefónica, TEM PR will bring substantial economic resources and technical expertise to enhance the competitiveness of NewComm’s PCS operations through price, product and quality of service competition. TEM PR also is well positioned to focus on the provision of quality and innovative services to customers in Puerto Rico because the Telefonica family of companies has decades of collective experience in the international wireless telecommunications industry and has provided quality service to its customers throughout Spain, the rest of Europe, and Latin America. The proposed transaction will not cause consolidation in the Puerto Rico wireless market because Telefonica has not previously held any interest in the commercial mobile radio services market in Puerto Rico, other than its minority interest in NewComm. Accordingly, TEM PR submits that grant of this Application is in the public interest.

The proposed transfer also promises to yield affirmative public interest benefits by promoting competition in **U.S.** markets. The Commission has noted that “foreign investment can promote competition **in** U.S. markets and that the public interest is served by **permitting** more

¹⁸ See Applications of Southern New England Telecommunications Corp. and SBC Communications, Inc., 13 FCC Rcd 21292,21315 (1998); Applications of Pacific Telesis Group and SBC Communications, Inc., 12 FCC Rcd 2624,2626-27 (1997).

¹⁹ See Applications of AirTouch Communications and Vodafone Group, *Memorandum Opinion and Order*, DA 99-1200, at ¶¶ 5-9 (rel. June 22, 1999).

²⁰ The Commission previously has found Móviles’ indirect owner, Telefónica, qualified to control a U.S. fixed wireless license. Specifically, Telefonica Data Licensing, Inc., an indirect subsidiary of Telefonica, participated in Auction Number **30**, completed May 9, 2000, and was issued a 39 GHz license for a geographic area encompassing Puerto Rico and the U.S. Virgin Islands. See FCC File No. ISP-PDR-20000313-00001. Additionally, in 1992, the Commission found Telefonica Larga Distancia, another Telefonica subsidiary, to be qualified to **hold** a Commission authorization. *Telefonica Larga Distancia de Puerto Rico*. 8 FCC Rcd 106 (1992).

open investment in U.S. common carrier radio licenses by WTO-member entities.”²¹ TEM PR and its affiliated entities are prepared to invest significantly in the further development of PCS and related services in Puerto Rico. Thus, Commission grant of the Application will benefit consumers by allowing a new, well-financed competitor to enter the PCS market.

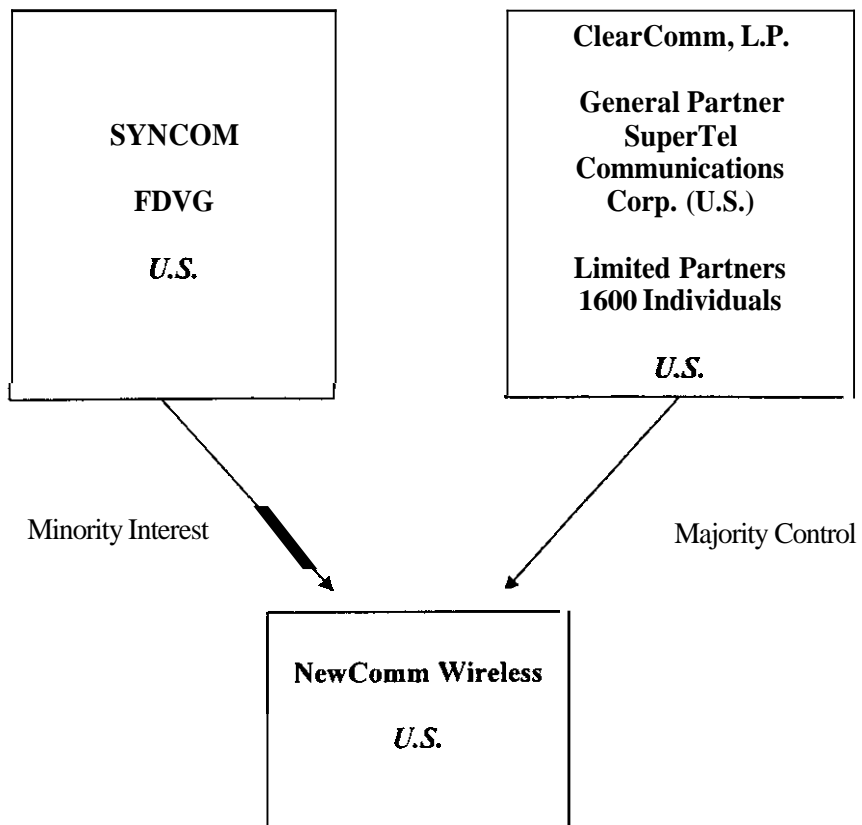
VI. CONCLUSION

Based on the foregoing and the facts and argument set forth in the Petition for Declaratory Ruling, the Parties respectfully request that the Commission expeditiously grant the instant Application for consent to transfer control of NewComm from ClearComm to TEM PR.

²¹ See VoiceStream Wireless Corporation, Powertel, Inc. and Deutsche Telekom AG Seek FCC Consent to Transfer Control of Licenses and Authorizations and Request Declaratory Ruling Allowing Indirect Foreign Ownership, *Memorandum Opinion and Order*, 16 FCC Rcd 9779 (2001) (citing Rules and Policies on Foreign Participation in the U.S. Telecommunications Market, *Report and Order on Reconsideration*, 12 FCC Rcd 23891, 23940 (1997)).

Attachment A

Current Ownership Structure of NewComm Wireless Services, Inc.



Attachment B

Stock Purchase Agreement

STOCK PURCHASE AGREEMENT

Between

TELEFÓNICA LARGA DISTANCIA DE PUERTO RICO, INC.,

And

CLEARCOMM, L.P.,

DATED AS OF MARCH 12, 2002

TABLE OF CONTENTS

Page

ARTICLE I DEFINITIONS

Section 1.01	Certain Defined Terms	1
Section 1.02	Construction	7

ARTICLE II PURCHASE AND SALE

Section 2.01	Purchase and Sale of the Seller Shares.....	8
Section 2.02	Purchase Price	8
Section 2.03	Pre-Closing and Closing.....	9
Section 2.04	Closing Deliveries by the Seller	9
Section 2.05	Closing Deliveries by the Purchaser	10
Section 2.06	Payment of Purchase Price	10

ARTICLE III REPRESENTATIONS AND WARRANTIES CONCERNING THE COMPANY

Section 3.01	Organization, Authority and Qualification of the Company and its Subsidiaries	10
Section 3.02	Capital Stock of the Company; Ownership of the Shares	11
Section 3.03	No Conflict	11
Section 3.04	Financial Information	11
Section 3.05	Absence of Certain Changes.....	12
Section 3.06	Litigation	12
Section 3.07	Telecommunications Licenses.....	12
Section 3.08	Intellectual Property Rights.....	13
Section 3.09	Contracts.....	13
Section 3.10	Compliance with Law	13
Section 3.11	No Payments or Benefits To Government Officials	13
Section 3.12	Related Party Transactions	13
Section 3.13	Capital Expenditures	14
Section 3.14	Brokers	14
Section 3.15	Powers of Attorney	14
Section 3.16	Disclosure	14

ARTICLE IV REPRESENTATIONS AND WARRANTIES CONCERNING THE SELLER

Section 4.01	Organization, Authority and Qualification.....	14
Section 4.02	Ownership of Shares	14
Section 4.03	No Conflict	15
Section 4.04	Litigation	15

**ARTICLE V
REPRESENTATIONS AND WARRANTIES OF THE PURCHASER**

Section 5.01	Organization and Authority of the Purchaser	15
Section 5.02	No Conflict	16
Section 5.03	Litigation	16
Section 5.04	Brokers	16
Section 5.05	Investment Purpose	16

**ARTICLE VI
ADDITIONAL AGREEMENTS**

Section 6.01	Conduct of Business Prior to the Closing	16
Section 6.02	Access to Information	20
Section 6.03	Regulatory Authorizations; Notices and Consents	20
Section 6.04	Ensure Conditions are Met; Further Action	20
Section 6.05	Publicity	21
Section 6.06	No Negotiation	21
Section 6.07	Notification	22
Section 6.08	Duty to Supplement	22
Section 6.09	Conveyancing and Withholding Taxes	22

**ARTICLE W
CONDITIONS TO CLOSING**

Section 7.01	Conditions to Obligations of the Seller	22
Section 7.02	Conditions to Obligations of the Purchaser	23

**ARTICLE VIII
INDEMNIFICATION**

Section 8.01	Survival of Representations and Warranties of the Seller	25
Section 8.02	Survival of Representation and Warranties of the Purchaser	25
Section 8.03	Indemnification of the Purchaser	25
Section 8.04	Indemnification of the Seller	26
Section 8.05	Notice and Defense of Third Party Claims	26
Section 8.06	Limitation	27
Section 8.07	Insurance Proceeds; Tax Benefits	27

**ARTICLE IX
TERMINATION AND WAIVER**

Section 9.01	Termination	27
Section 9.02	Effect of Termination	28
Section 9.03	Waiver	28

**ARTICLE X
GENERAL PROVISIONS**

Section 10.01	Expenses	29
Section 10.02	Notices	29
Section 10.03	Headings	30

Section 10.04	Severability	30
Section 10.05	Entire Agreement.....	30
Section 10.06	Assignment	30
Section 10.07	No Third Party Beneficiaries	30
Section 10.08	Amendment	30
Section 10.09	Governing Law	31
Section 10.10	Arbitration	31
Section 10.11	Waiver of Jury Trial	31
Section 10.12	English Language	31
Section 10.13	Counterparts	32

DISCLOSURE SCHEDULE

The Disclosure Schedule shall include the following Sections (to be provided by **the Seller**):

2.02(b)	Investment Banks
3.01	Organizational documents
3.02	Capitalization
3.03	Consents, approvals and notifications
3.04	Financial Information
3.05	Absence of certain changes
3.06	Litigation
3.01	Listed Licenses
3.08	Intellectual Property Rights
3.09	Material Contracts
3.10	Non-compliance
3.12	Related Party Transactions
3.13	Capital Expenditures
3.15	Powers of Attorney

Exhibits:

Exhibit A	- Sale Agreement
Exhibit B	- Shareholders' Agreement
Exhibit C	- Management Committee Members
Exhibit D	- Second Amendment to Management Agreement

STOCK PURCHASE AGREEMENT, *dated* as of March 12, 2002 (the "Effective Date"), among TELEFÓNICA LARGA DISTANCIA DE PUERTO RICO, INC., a corporation organized and validly existing under the laws of the Commonwealth of Puerto Rico (the "Purchaser") and CLEARCOMM, L.P., a Delaware limited partnership (the "Seller").

WHEREAS, NewComm Wireless Services, Inc. (the "Company") operates a 1900 MHz band wireless telecommunications network in the Commonwealth of Puerto Rico,

WHEREAS, upon conversion of the Convertible Securities immediately prior to Closing, the Purchaser will own 49.9% of the outstanding equity interests of the Company, and the Seller and each other owner of equity interests of the Company will own collectively **50.1%** of the equity interests in the Company, all as set forth in Section 3.02;

WAEREAS, subject to the terms and conditions of *this* Agreement, at the Closing the Seller desires to sell, convey, transfer, assign and deliver to the Purchaser, and the Purchaser desires to purchase from *the* Seller such number of Shares of the Company such that upon conversion of the Convertible Securities and the acquisition of the Shares to be purchased hereunder, the Purchaser shall own 50.1% of the issued and outstanding equity interests of the Company on a fully-diluted basis.

NOW, THEREFORE, in consideration of the premises and the mutual agreements, covenants, representations and warranties *hereinafter* set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Purchaser, the Company and the Seller, intending to be legally bound, hereby agree as follows:

ARTICLE I DEFINITIONS

Section 1.01 Certain Defined Terms. **As** used in this Agreement, the following terms shall have the following meanings:

"Action" means any claim, action, suit, arbitration, inquiry, proceeding or investigation by or before any Governmental Authority.

"Affiliate" means, with respect to any specified Person, any other Person that directly, or indirectly through one **or** more intermediaries, controls, is controlled by, or is under common control with, such specified Person. For purposes of this Agreement, the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction ~~of~~ the management and policies of a Person, whether through the ownership of voting securities, by representation on the board of directors, management committee or similar governing **body**, by contract or otherwise.

"Aereement" or **"this Aereement"** means this Stock Purchase Agreement, dated as of the Effective Date, among the Seller, the Company and the Purchaser (including the Exhibits hereto and the Disclosure Schedule) and all amendments hereto made in accordance with the provisions of Section 10.08.

"Alcatel" means Compagnie Financière Alcatel, a company organized under **the** laws of the Republic of France.

"Alternative Transaction" has the meaning specified in Section 6.06.

"Business Day" means any day that is not a Saturday, a Sunday or other day on which banks are required or authorized by law to **be** closed in any of the City of New **York**, New York, United States of America or San Juan, Puerto Rico.

"Closing" has the meaning specified in Section **2.03**

"Closing Date" has the meaning specified in Section **2.03**

"Code" means the United States Internal Revenue Code of 1986, as amended together with the **rules** and regulations promulgated thereunder.

"Common Stock Purchase Warrant" means the Class C Common Stock Purchase Warrant No. CB-001 of the Company issued on November 1, 2000.

"Company" has the meaning specified in the preamble

"Company's Accountants" means Arthur Andersen & Co. or any other internationally recognized auditing firm which the Company appoints **as** its independent accountants.

"Contract" means any agreement, contract, commitment, instrument or other binding arrangement or understanding, whether written or oral.

"Convertible Securities" shall mean the Secured Convertible Promissory Note and the Non-Dilution Notes.

"Corporate Records" means: (i) the original corporate books of the Company duly signed by corporate officers and directors, (ii) minutes of shareholders' meetings **of** the Company duly signed by corporate officers and directors with all the corresponding documents; (iii) authorizations, licenses, notices, submissions and correspondence of the Company to and from regulatory authorities, including, without limitation, tax, telecommunications, foreign investment and anti-trust authorities; (iv) documents evidencing the release of any and all Encumbrances on the Shares; (v) duly endorsed certificates representing the Shares; and (vi) original copies of any and all material legal documentation affecting the rights and obligations of the Company.

"Disclosure Schedule" means the disclosure exhibit attached hereto, dated as of **the date** hereof, and forming a part of this Agreement.

"Dispute" has the meaning specified in Section 10.10(a).

"Dollars" or **"\$"** means the legal currency of the United States of America

"Effective Date" has the meaning specified in the preamble

“Encumbrance” means any security interest, pledge, ~~mortgage~~, lien (including, without limitation, environmental and ~~tax~~ liens), charge, encumbrance, adverse claim, preferential arrangement or restriction of any **kind**, including, without limitation, any restriction on the use, voting transfer, receipt of income or other exercise of any attributes **of** ownership, but excluding restrictions on transfer under applicable ~~federal~~, **state** or foreign securities laws.

“Equity Valuation” **shall** mean the valuation of the Company conducted by the Nominee in accordance with Sections 2.02(b) and (c).

“Exchange Act” shall mean the United States Securities Exchange Act of 1934, as amended, together with the rules and regulations promulgated thereunder.

“FCC” shall mean the Federal Communications Commission.

“FTC” shall mean the Federal Trade Commission

“Financial Statements” has the meaning set forth in Section 3.04

“Fleet Syndicate” shall mean, collectively, Fleet Development Ventures, LLC, Opportunity Capital Partners IV, L.P. and Power Equities, Inc.

“Governmental Authority” means with respect to any party, any foreign or United States, federal, commonwealth, state or local government, governmental, regulatory, or administrative authority, agency or commission or any court, tribunal, or judicial or arbitral body, having jurisdiction over such party or its assets.

“Governmental Order” means any order, notice, writ, judgment, injunction, decree, stipulation, determination, award approval, consent, authorization or agreement entered by or with any Governmental Authority.

“HSR Act” shall mean the Hart-Scott-Rodino Antitrust Improvements Act of 1976, **as** amended.

“Indebtedness” means, with respect to the Company (a) all indebtedness of the Company and its Subsidiaries for borrowed money (excluding the current portion **of** any long-term debt and capital leases, short-term borrowings or debt), (b) all vendor financing of the Company and its Subsidiaries or other indebtedness for the deferred purchase price of property or services (including (i) indebtedness owed to Lucent Technologies, Inc., (ii) indebtedness owed to Alcatel, but excluding trade payables and liabilities incurred in the ordinary course of business and payable in accordance with customary practice), (c) except as excluded in (a) ~~above~~, all obligations of the Company and its Subsidiaries evidenced by notes, bonds, debentures ~~or other~~ similar instruments (including, but not limited to, indebtedness of the Company to the ~~FCC~~), (d) all indebtedness created or arising under any conditional sale or other title retention agreement with respect to property acquired by the Company and its Subsidiaries (even though the rights and remedies of the seller or lender under such agreement in the event of default are limited to repossession or sale of such property), (e) all obligations of the Company and its Subsidiaries as lessee under leases that have been, in accordance with **U.S.** GAAP, recorded as

capital leases, and (f) any other Indebtedness which would be classified as “Indebtedness” under U.S. GAAP; all of the foregoing calculated in accordance with U.S. GAAP.

“Indemnified Person” has the meaning specified in Section 8.05

“Indemnifying Person” has the meaning specified in Section 8.05

“Intellectual Property Rights” means (a) all software (including software under development), hardware, object code, source code, trade secrets or similar confidential information, technology, know-how, customer lists, marketing and customer information, and materials which are the subject matter of copyright (e.g., manuals, documentation, etc.); (b) systems functionality and all written information, diagrams, flow charts, systems requirements documents, methods of procedure, fast market application plans, operations support plans and related information used in the design, implementation and provisioning of technology, including all enhancements, upgrades or additions to such materials or any software or hardware; (c) all intangible intellectual property rights, including any and all applications for patents or issued patents; and (d) all licenses, agreements and other arrangements with third parties pertaining to such matters.

“Internationally Recognized Investment Banks” has the meaning specified in Section 2.02(b).

“Investment” or “Investments” has the meaning specified in Section 6.04.

“Joint Venture Agreement” means the joint venture agreement, dated as of February 4, 1999 by and between the Purchase and the Seller, as amended by the First Amendment to the Joint Venture Agreement dated as of February 23, 1999, the Second Amendment to the Joint Venture Agreement dated as of August 21, 1999, the Third Amendment to the Joint Venture Agreement dated as of January 31, 2000, the Fourth Amendment to the Joint Venture Agreement dated as of November 2, 2000, the Fifth Amendment to the Joint Venture Agreement dated as of November 22, 2000, the Sixth Amendment to the Joint Venture Agreement dated as of June 26, 2001 and as it may be subsequently amended.

“Knowledge of the Seller” means if the members of the Company’s board of directors appointed or nominated by the Seller have actual knowledge of any matter or if such members would have obtained actual knowledge of such matter after due inquiry if such director possesses such information as would cause a reasonably prudent person to make due inquiry in respect of such matter and such reasonably prudent person would, after such due inquiry, gain such actual knowledge about such matter; provided, however, that with respect to Sections 3.03, 3.05, 3.06, 3.08, 3.10, 3.11 and 3.13, the Seller shall be deemed to have “Knowledge” of a matter only if such matter was actually discussed at a meeting of the Company’s board of directors.

“Law” or “Laws” means any statute, law, ordinance, regulation, rule, code, order, other requirement or rule of law of any country, state, commonwealth, province, locality, region or area therein, or any other jurisdiction.

“Liabilities” means any and all debts, liabilities and obligations, whether accrued or fixed, absolute or contingent, matured or unmatured or determined or determinable, including,

without limitation, those arising under any Law, Action or Governmental Order and those arising under any Contract.

"Listed Licenses" has the meaning specified in Section 3.07

"Loan Documents" shall mean the Bridge Loan Facility Agreement, dated as of November 22, 2000 among the Company, the Purchaser, the Seller and the lenders thereto, as amended by Amendment No. 1 to Bridge Loan Agreement, dated as of March 15, 2001; as amended by Amendment No. 2 to Bridge Loan Agreement, dated as of March 22, 2001, as amended by Amendment No. 3 to Bridge Loan Agreement, dated as of March 29, 2001, as amended by Amendment No. 4 to Bridge Loan Agreement, dated as of May 29, 2001, as amended by Amendment No. 5 to Bridge Loan Agreement, dated as of June 19, 2001, as amended by Amendment No. 6 to Bridge Loan Agreement, dated as of June 22, 2001, as amended by Amendment No. 7 to Bridge Loan Agreement, dated as of August 10, 2001, as amended by Amendment No. 8 to Bridge Loan Agreement, dated as of October 17, 2001, as amended by Amendment No. 9 to Bridge Loan Agreement, dated as of March 14, 2002 and any future amendments thereto and all material agreements executed in connection therewith.

"Loss" or "Losses" means any and all Liabilities, losses, damages, claims, costs and expenses, interest, awards, judgments and penalties actually suffered or incurred by any Indemnified Person.

"Management Agreement" means the management agreement, dated as of March 3, 1999 by and between the Purchaser and the Company, as amended by the first amendment thereto, dated June 26, 2001, as amended by the second amendment thereto, dated the date hereof.

"Material Adverse Effect" means, with respect to a Person, any circumstance, change in or effect on, the Person or any Subsidiary thereof that is or could reasonably be expected to be materially adverse to the business, results of operations or the financial condition of such Person.

"Nominee" has the meaning specified in Section 2.02(b).

"Non-Dilution Notes" means the convertible notes issued or to be issued to the Purchaser by the Company in exchange for additional loans by the Purchaser.

"Person" means any individual, partnership, firm, corporation, limited liability company, joint venture, association, **trust**, unincorporated organization or other entity, as well as any syndicate or group that would be deemed to be a person under Section 13(d)(3) of the Exchange Act.

"Pre-Closing Date" has the meaning set forth in Section 2.03(a).

"Project Financing Facility" means long-term financing on terms which are consistent with the then market for financings of materially equivalent amounts for entities with similar financial condition and prospects to the Company which financing is necessary and in an amount sufficient to (i) repay the obligations of the Company to each of the FCC, Lucent Technologies, Inc., Alcatel and under the Loan Documents, (ii) repay the obligations of the Company under the Management Agreement and (iii) provide **working** capital for the Company.

"Pueno Rico" means the Commonwealth of **Puerto Rico**.

"Purchase Price" has the meaning specified in Section **2.02**.

"Purchaser" has the meaning specified in the preamble to this Agreement.

"Purchaser's Indemnified Persons" has the meaning specified in Section **8.03**.

"Reoresentatives" means, with respect to any party, such party's **officers**, employees, directors, agents or advisors.

"Returns" means all tax returns, reports and forms relating to the Company that **are** due on or before or relate to any taxable period ending **on** or before the Closing Date.

"Sale Agreement" means the Sale Agreement, dated **as** of the Effective Date, by and among the Seller, the Purchaser, Syncom, the Fleet Syndicate and the Company, in the form attached hereto as Exhibit A.

"Sale of the Company" means (i) a Transfer of all of the outstanding equity interests of the Company; (ii) a Transfer of substantially all of the assets of the Company or (iii) the merger, consolidation or other business combination of the Company with or into another Person, in each case under circumstances in which the holders of outstanding capital stock of the Company, immediately prior to such transaction, own less than **50%** in voting power of the outstanding capital stock of the surviving or resulting corporation or acquirer, as the case may be, immediately following such transaction.

"Secured Convertible Promissory Note" means the secured convertible promissory note dated as of June **22**, 2001 in the principal amount of \$19,960,000 by and between the Company, as debtor and the Purchaser, **as** creditor, as such note may be substituted, amended and restated from time to time to preserve the economic interests of TLD in the Company as contemplated thereby.

"Securities Act" means the United States Securities Act of **1933**, as amended, together with the rules and regulations promulgated thereunder.

"Seller" has the meaning specified in the preamble to this Agreement

"Seller Shares" shall mean those Shares owned by the Seller and to be sold to the Purchaser **as** specified in Section **2.01**.

"Seller's Indemnified Persons" has the meaning set forth in Section 8.04.

"Shareholders Aereement" means the shareholders agreement, dated **as** of the Closing Date, by and among the Seller, the Purchaser, Syncom, the Fleet Syndicate and any other shareholder of the Company at the time of its execution, substantially in the form attached hereto as Exhibit B.

“Shares” means the Class A Common Stock, par value \$.01 per ~~share~~, the ~~Class~~ B Common Stock, par value \$.01 per share, the Class C Common Stock, par value \$.01 per share and the ~~Class~~ D Common Stock, par value \$.01 per ~~share~~, of the Company,

“Sprint Litigation” means NewComm Wireless Service, Inc. v. Sorintcom, Inc., Civil No. 01-2270 (CAG) United States District Court for the District of Puerto Rico.

“Subsidiary” or “Subsidiaries” means, with respect to a Person, any and all corporations, partnerships, joint ventures, associations and other entities controlled by such Person directly or indirectly through one or more intermediaries.

“Syncom” means Syndicated Communications Venture Partners IV, L.P.

“Technology Transfer Agreement” means ~~the~~ technology transfer agreement, dated ~~as~~ of March 3, 1999 by and between the Company and TISA

“TISA” means Telefonica International, S.A., a Spanish corporation

“Trademarks” means all trademarks, service marks, trade names or trade dress and all pending or issued registrations thereof.

“Transfer” means to sell, assign, transfer, give, encumber, pledge, hypothecate or in any other way dispose of.

“Transaction Documents” means this Agreement, the Shareholders Agreement, the Sale Agreement and any other agreement required to be executed by the parties to complete the transactions contemplated herein.

“U.S. GAAP” means United States generally accepted accounting principles and practices as in effect from time to time and applied consistently throughout the periods involved.

Section 1.02 Construction. As used in this Agreement, (i) each term defined in this Agreement has the meaning assigned to it, (ii) each accounting term not otherwise defined in this Agreement has the meaning assigned to it in accordance with U.S. GAAP, (iii) as the context may require, words in the singular include the plural and words in the plural include the singular, (iv) as the context may require, words in the masculine or neuter gender include the masculine, feminine and neuter genders, (v) all references to Exhibits or Schedules refer to Exhibits or Schedules delivered herewith or attached hereto (each of which is deemed to be a part of this Agreement), (vi) all references to Sections or Articles refer to Sections or Articles of this Agreement, (vii) all references to “\$” or “dollars” refer to United States dollars, (viii) any amount to be paid in “\$” or “dollars” shall be paid in U.S. dollars, and (ix) the terms “~~herein~~,” “hereunder,” “hereby,” “hereto” and terms of similar import refer to this Agreement in its entirety, and not to any particular Article, Section, paragraph or subparagraph. No provision of this Agreement will be construed in favor ~~of~~, or ~~against~~, any of the parties hereto by reason of the extent to which such party or its counsel participated in its drafting or by reason of the extent to which this Agreement or any provision hereof is inconsistent with any prior draft hereof or thereof